

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CHET DUDA,

Plaintiff,

v.

ISIDRO BACA, et al.,

Defendants.

Case No. 3:19-CV-0546-MMD-CLB

REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4. Before the court is plaintiff's failure to comply with Local Rule ("LR") IA 3-1 requiring plaintiff to change his address.

On April 26, 2021, the court's order ECF No. 17 was returned by the U.S. Postal Service with the following handwritten note: 'return to sender'. (ECF No. 19). Thereafter, the court issued an order requiring Plaintiff to update his address by May 28, 2021. (ECF No. 20). Plaintiff was cautioned that his failure to do so would result in a dismissal of this action. (*Id.*) That order was also returned to the court as undeliverable. (ECF No. 21).

To date, Plaintiff has not filed a notice of change of address with the court. In fact, Plaintiff has not filed a document with the court since he filed a change of address in September 2019. (ECF No. 3). LR IA 3-1 provides that the failure to "immediately file with the Court written notification of any change of address . . . may result in dismissal of the action"

Prior to dismissal for failure to follow local rules, the court must consider: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its

1 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition
2 of cases on their merits; and (5) the availability of less drastic sanctions.” *Carey v. King*,
3 856 F.2d 1439, 1440 (9th Cir. 1988) (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423
4 (9th Cir. 1986)). This litigation cannot proceed or be decided on the merits if the court
5 and defendants cannot contact plaintiff, nor should the court or defendants be required to
6 continue to try to resolve the case without the plaintiff’s participation. All five factors
7 clearly favor dismissal of this case.

8 Based on the foregoing and for good cause appearing, the court recommends that
9 this case dismissed based upon Plaintiff’s failure to notify the court of his change of
10 address pursuant to LR IA 3-1.

11 The parties are advised:


12 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of
13 Practice, the parties may file specific written objections to this Report and
14 Recommendation within fourteen days of receipt. These objections should be entitled
15 “Objections to Magistrate Judge’s Report and Recommendation” and should be
16 accompanied by points and authorities for consideration by the District Court.

17 2. This Report and Recommendation is not an appealable order and any notice
18 of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District
19 Court’s judgment.

20 RECOMMENDATION

21 IT IS THEREFORE RECOMMENDED that this action be **DISMISSED** for Plaintiff’s
22 failure to comply with LR IA 3-1.

23 DATED: June 3, 2021.

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25 _____
26 UNITED STATES MAGISTRATE JUDGE
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